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NO. 614 ~~Miscellaneous~~

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IN THE

Supreme Court of the United States

OCTOBER TERM, 1965

PAUL M. NEHRING,
Defendant-Appellant,

VS.

EDWARD M. GERRITY,
Plaintiff-Appellee.

On Appeal from the Supreme Court of Illinois

Petition for Rehearing

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Petitioner Paul M. Nehring prays this court grant Rehearing of its Order of 6 December 1965 denying the document filed by him, as a Writ of Certiorari, and that a Writ of Certiorari to Review the Judgment of the Supreme Court of Illinois in the above-entitled case be issued as prayed for in the document filed by him on 25 September 1965, herein.

REASONS FOR GRANTING REHEARING AND ISSUING WRIT OF CERTIORARI

1. As the Jurisdictional Statement shows this layman—appearing in the capacity solely because competent counsel will not take this type of case—has to be very careful that he follows the Rules of Court and so he wants to follow this court's Rule 58 (2).

2. However, this cannot be done in full as there is no precedent for the major issue raised: which is the right of a civil litigant to have and use a Report of Proceedings in the Trial Court on the same terms that a convicted criminal has—in this Court.

3. The Opinion of the Illinois Supreme Court recites:

> "• • • the theory of the Defendant (Nehring) is that a refusal to grant further extension (of time) for filing the record—deprived him of due process of law. Judge Solfisburg, who tried the case, became a member of this court • • • and thereafter he was without authority to certify to the correctness of the Report of Proceedings • • •

4. In the Illinois Supreme Court, the Appellee—who has not appeared here—produced a so-called report of proceedings signed by another judge ex parte, and this petitioner objected to its use, without avail. Thus: in violation of the 14th Amendment to the Constitution—the Illinois Supreme Court passed on this case knowingly with a report of proceedings objected to as being incomplete; used it and refer to it as "The Record"—when it can*not* be.

5. The same court says in the same opinion that:

> "The Circuit Court entered judgment for the Plaintiff (counsel Gerrity) for $3500.00 plus interest • • •";

but, the law in Illinois is:—That no interest can be given on a contested claim until after the Judgment is rendered. This point was raised by this Petitioner in his Brief on Page 22, Point IV, calling the Court's attention to the illegal act of the lower court (now Supreme Court) judge. The cases supporting the Petitioner as to the illegal action of the Supreme Court Justice are: *Street* v. *Thompson,* 131 Ill. App. 546 and *O'Heron* v. *American Br. Co.,* 177 Ill. App. 405.

6. Thus: As the Petitioner states, the first Trial Court Judge obstructed justice by *not* approving a Report of Proceedings and by rendering Judgment for a sum that he could not do; and, the second judge (both members of the local bar associations) obstructed justice by signing an approval of a so-called report of proceedings ex parte in a case he never heard for another fellow—member of the Bar—the Plaintiff.

7. It is the contention of the Petitioner that this Court should stop what is going on in Illinois—where laymen are discriminated against by members of the Bar Associations, in two ways: Reputable and competent lawyers won't represent laymen against their fellow-counsel when they know that the Judge and opposing counsel are on extremely friendly terms; or when—as happened here—that friendly Judge renders a Judgment in excess of what he could legally do and then obstructs justice by refusing to see that a Report of Proceedings was corrected, approved and certified by the court reporter and himself *before and after* he became a member of the Illinois Supreme Court as he agreed to do. That court refuses to see the friendly judge's illegal acts.

8. This case comes within Rule 58, in that the situation is as stated in the case of *Schriber-Schroth* v. *Cleveland Trust Co.*, 305 U.S. 47, 50: in that there are many cases where a *correct* Report of Proceedings in a civil case will change the position of the parties involved, and this Court should rule that the 14th Amendment demands that all the Courts co-operate to have the Court Record *"speak the truth"*. (F.R.C.P.—75(N), in *civil* cases in Illinois.

This can be done *sua sponte,* in this case now on the basis of *United States Smelting & Refining Co. et al.* v. *Lowe,* 338 U.S. 954 and the case reported below (176 F2d 486), the matter before the Court was then without a complete transcript, only a fragmentary record in a Bill of Exceptions was available, which leaves this as an *incomplete transcript.* The Honorable U.S. Supreme Court granted Certiorari.

CONCLUSION.

What has been set forth before is contrary to the following Illinois rulings:

> "Basic American justice presupposes a fair and impartial hearing before a fair and impartial tribunal" (citing *Smith* v. *Department of Reg. & Ed.,* 412 Ill. 332, 347).
>
> See also *Braden* v. *Much,* 403 Ill. 507, 513;
> *Flick* v. *Gately,* 328 Ill. App. 81, 88, 89;
> *Board of Education* v. *County Board etc.,* 13 Ill. App. 2d 561, 569;
> *Strohl* v. *Macon Zoning Board,* 411 Ill. 559;
> *Parker* v. *Dept. of Reg.,* 5 Ill. 2d 288, 294.

This court agrees with the Illinois Supreme Court when it says:—

> ". . . the greatest scourge an angry heaven ever inflicted upon an ungrateful and a sinning people, was an ignorant, a corrupt, or a dependent judiciary."
>
> —John Marshall
> *Chief Justice of the*
> *United States Supreme Court*

> ". . . a court must first have a dignified place in which to work; an efficient staff and an educated full-time judge dedicated to the fair and impartial administration of justice."
>
> —Hon. Tom C. Clark
> *Associate Justice,*
> *United States Supreme Court*

Had the Illinois Supreme Court Justices followed their own rulings, this laymen would not be here.

For the reasons set forth above and in the documents this Court accepted as a Petition for Writ of Certiorari, it is respectfully urged that a rehearing be granted and that, upon such rehearing, a Writ of Certiorari issue to either the Supreme Court of Illinois or directly to the Circuit Court of De Kalb County, Illinois.

PAUL M. NEHRING, *Pro Se.*

Proof of Service, copy of notice and all necessary affirmations were filed with one document attached to the signed copy.

END